

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SANDY LOFTON, CHRISTOPHER TYLER
LOFTON, and TEGAN NICOLE LOFTON,
Individually and on behalf of the ESTATE of
CHRISTOPHER M. LOFTON, deceased, and
SANDY LOFTON as Next Friend for
LAUREN LOFTON, a Minor Child,

Plaintiffs,

v.

MCNEIL CONSUMER & SPECIALTY
PHARMACEUTICALS, a Division of
MCNEIL-PPC, INC.; and JOHNSON &
JOHNSON,

Defendants.

Civil Action No. 3:05-CV-1531-L

ECF

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

In accordance with Rule 56 of the Federal Rules of Civil Procedure and the local civil rules of this Court, Defendants McNeil Consumer Healthcare (formerly Consumer & Specialty Pharmaceuticals), a division of McNeil-PPC, Inc. ("McNeil") and Johnson & Johnson ("J&J") (collectively "Defendants") move the Court for summary judgment on all claims asserted against the Defendants by Plaintiffs. In accordance with Local Civil Rule LR 56.3, each of the matters required by Local Civil Rule LR 56.3(a) is set forth in the Defendants' brief in support of their motion for summary judgment. This motion is supported by an appendix prepared pursuant to Local Civil Rule LR 56.6.

Defendants respectfully request that the Court enter a judgment that Plaintiffs take nothing on their claims against Defendants, that the Court dismiss Plaintiffs' claims against Defendants with prejudice, and that the Court award the Defendants their costs of court.

By: /s/ Robert K. Mitchell
Michael R. Berry
State Bar No. 02238490
Michael.Berry@tklaw.com
Attorney-in-charge
Lauren C. Hornsby
State Bar No. 00790671
Lauren.Hornsby@tklaw.com
Robert K. Mitchell
State Bar No. 24041500
Robert.Mitchell@tklaw.com

THOMPSON & KNIGHT LLP
1700 Pacific Avenue, Suite 3300
Dallas, Texas 75201
(214) 969-1299 (Phone)
(214) 969-1751 (Facsimile)

ATTORNEYS FOR DEFENDANTS
MCNEIL CONSUMER HEALTHCARE, A
DIVISION OF MCNEIL-PPC, INC., AND
JOHNSON & JOHNSON

Of Counsel:
Vernon I. Zvoleff
California Bar No. 81380
Thomas W. Pulliam, Jr.
California Bar No. 46322
Drinker Biddle & Reath LLP
50 Fremont Street, 20th Floor
San Francisco, CA 94105-2235
415-591-7570 (telephone)
415-591-7510 (facsimile)

CERTIFICATE OF SERVICE

I certify that on May 2, 2008, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the following attorneys of record who have consented in writing to accept this Notice as service of the document by electronic means: Ted B. Lyon, Ted B. Lyon & Associates, Town East Tower, Suite 525, 18601 LBJ Freeway, Mesquite, Texas 75150-5632.

I hereby certify that I have served the foregoing document via certified mail, return receipt requested to the following individuals: Ted B. Lyon, Ted B. Lyon & Associates, Town East Tower, Suite 525, 18601 LBJ Freeway, Mesquite, Texas 75150-5632.

/s/ Robert K. Mitchell

Robert K. Mitchell